

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 288

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO COMMUNITY INFRASTRUCTURE DISTRICTS; AMENDING SECTION 50-3101, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FORMATION OF COMMUNITY INFRASTRUCTURE DISTRICTS; AMENDING SECTION 50-3102, IDAHO CODE, TO REVISE CERTAIN DEFINITIONS; AMENDING SECTION 50-3103, IDAHO CODE, TO REVISE PROVISIONS RELATING TO NOTICE; AMENDING SECTION 50-3104, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE MANAGER, TREASURER AND CLERK OF A DISTRICT; AMENDING SECTION 50-3105, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE USE OF CERTAIN PUBLIC EASEMENTS AND RIGHTS-OF-WAY AND TO REVISE PROVISIONS RELATING TO COMMUNITY INFRASTRUCTURE LOCATION; AMENDING SECTION 50-3108, IDAHO CODE, TO PROVIDE THAT IN NO EVENT SHALL THE AGGREGATE OUTSTANDING PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS AND ANY OTHER INDEBTEDNESS FOR WHICH THE FULL FAITH AND CREDIT OF THE DISTRICT ARE PLEDGED EXCEED SEVEN PERCENT OF THE ACTUAL OR ADJUSTED MARKET VALUE FOR ASSESSMENT PURPOSES ON CERTAIN PROPERTY AS SUCH VALUATION EXISTED ON A CERTAIN DATE; AMENDING SECTION 50-3109, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ADOPTION OF A CERTAIN RESOLUTION; REPEALING SECTION 50-3113, IDAHO CODE, RELATING TO THE COST OF ADMINISTRATION; AND AMENDING SECTION 50-3119, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN APPEALS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 50-3101, Idaho Code, be, and the same is hereby amended to read as follows:

50-3101. PURPOSE, RELATIONSHIP WITH OTHER LAWS AND SHORT TITLE. (1) The purpose of this chapter is:

(a) To encourage the funding and construction of regional community infrastructure in advance of actual developmental growth that creates the need for such additional infrastructure;

(b) To provide a means for the advance payment of development impact fees established in chapter 82, title 67, Idaho Code, and the community infrastructure that may be financed thereby; and

(c) To create additional financial tools and financing mechanisms that allow new growth to more expediently pay for itself.

(2) Only community infrastructure to be publicly owned by this state or a political subdivision thereof may be financed pursuant to this chapter.

(3) A community infrastructure district may only be formed pursuant to this chapter by a city in the city's incorporated area, or by a county ~~in an area contained within a city's comprehensive plan with the city's consent.~~

(4) A community infrastructure district may be formed only after (i) prior review and approval by the governing body of each county or city in which the district is proposed to be located of a petition requesting the formation of the district, and (ii) the necessary approvals for site development under the local land use planning act, sections 67-6501 et seq., Idaho Code, and the planning and zoning ordinances of each county and city in which the district is proposed to be located have been obtained; provided however, that where there will be phased development, approvals obtained for the first phase of site development shall be sufficient for the initial creation and organization of the district. The formation of a district pursuant to this chapter shall not prevent the exercise by a county, city or other political subdivision of any of its powers on the same basis as on all other land within its jurisdiction. Notwithstanding the formation of a district, the development of real property located within the district shall remain subject to the provisions of chapter 65, title 67, Idaho Code, and the applicable planning and zoning ordinances of the counties and cities in which the district is located. The formation of a district pursuant to this chapter shall not prevent the subsequent establishment of other districts or the improvement or assessment of land within the district by a county, city or other political subdivision.

(5) This chapter shall be known and cited as the "Community Infrastructure District Act."

SECTION 2. That Section 50-3102, Idaho Code, be, and the same is hereby amended to read as follows:

50-3102. DEFINITIONS. As used in this chapter, the following terms shall have the meanings as stated:

(1) "Assessment area" means real property within the boundaries of a community infrastructure district that is the subject of a specific special assessment as set forth in this chapter.

(2) "Community infrastructure" means improvements that ~~directly or indirectly~~ primarily benefit the district. Community infrastructure excludes public improvements fronting individual single family residential lots. Community infrastructure includes planning, design, engineering, construction, acquisition or installation of such infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of such infrastructure, and incurring expenses incident to and reasonably necessary to carry out the purposes of this chapter. Community infrastructure includes all public facilities as defined in section 67-8203(24), Idaho Code, and, to the extent not already included within the definition in section 67-8203(24), Idaho Code, the following:

- (a) Highways, parkways, expressways, interstates, or other such designation, interchanges, bridges, crossing structures, and related appurtenances;
- (b) Public parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;
- (c) Trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for travel, ingress, egress and parking;
- (d) Public safety facilities;
- (e) Acquiring interests in real property for community infrastructure;

(f) Financing costs related to the construction of items listed in this subsection; ~~and~~

(g) Impact fees; and

(h) Enhancements to public school facilities beyond those standard improvements required for similar school facilities.

(3) "Community infrastructure segment" means a separate or a discernible portion of a construction contract attributable to community infrastructure.

(4) "Debt service" means the principal of, interest on and premium, if any, on the bonds, when due, whether at maturity or prior redemption and fees and costs of registrars, trustees, paying agents or other agents necessary to handle the bonds and the costs of credit enhancement or liquidity support.

(5) "District" means a community infrastructure district formed pursuant to this chapter. A district shall only include contiguous property ~~at the time of formation~~. Land that is connected by only a shoestring or strip of land which comprises a railroad or highway right-of-way shall not be considered contiguous for the purposes of this chapter. ~~Subsequent to a district's formation, a district may include noncontiguous property but only as the same shall be specifically determined and authorized by the district board in its discretion and pursuant to section 50-3106.~~

(6) "District board" means the board of directors of the district.

(7) "District development agreement" means an agreement between a property owner or developer, the county or city, any other political subdivision of the state, and/or the district. A district development agreement shall be used to establish obligations of the parties to the agreement relating to district financing and development, including: intergovernmental agreements; the ultimate public ownership of the community infrastructure financed by the district; the understanding of the parties with regard to future annexations of property into the district; the total amount of bonds to be issued by the district and the property taxes and special assessments to be levied and imposed to repay the bonds and the provisions regarding the disbursement of bond proceeds; the financial assurances, if any, to be provided with respect to the bonds; impact and other fees imposed by governmental authorities, including credit, prepayment and/or reimbursement with respect thereto; and other matters relating to the community infrastructure, such as construction, acquisition, planning, design, inspection, ownership and control. A district development agreement shall be in addition to and shall not supplant any development agreement entered into pursuant to section 67-6511A, Idaho Code, pursuant to which a governing body may require or permit as a condition of rezoning that an owner or developer make a written commitment concerning the use or development of the subject parcel.

(8) "General plan" means the general plan described in section 50-3103(1), Idaho Code, as the plan may be amended from time to time.

(9) "Governing body" means the county commissioners or city council that by law is constituted as the governing body of the county or city in which the district is located. Reference in this chapter to "governing body or bodies" shall mean the governing body or bodies of each county and city in which the district is located.

(10) "Owner" means the person listed as the owner of real property within the district or a proposed district on the current property rolls in effect at the time that the action, proceeding, hearing or election has begun; provided however, that if a person listed on the property rolls is no longer the owner of real property within the district or a proposed district and the name of the successor owner becomes known and is verified by recorded deed or other similar evidence

of transfer of ownership, the successor owner shall be deemed to be the owner for the purposes of this chapter.

(11) "Market value for assessment purposes" means the amount of the last preceding equalized assessment of all taxable property and excludes all property exempt from taxation pursuant to section 63-602G, Idaho Code, within the community infrastructure district on the tax rolls completed and available as of the date of approval in the district bond issuance.

(12) "Person" means any entity, individual, corporation, partnership, firm, association, limited liability company, limited liability partnership, trust or other such entities as recognized by the state of Idaho. A "person in interest" is any person who is a qualified elector in the district, who is an owner of real property in the district or who is a real property taxpayer in the district.

(13) "Qualified elector" means a person who possesses all of the qualifications required of electors under the general laws of the state of Idaho and:

(a) Resides within the boundaries of a district or a proposed district and who is a qualified elector. For purposes of this chapter, such elector shall also be known as a "resident qualified elector"; or

(b) Is an owner of real property that is located within the district or a proposed district, who is not a resident qualified elector as set forth above. For purposes of this chapter, such elector shall also be known as an "owner qualified elector."

(14) "Special assessment" means an assessment imposed upon real property located within an assessment area for a specific purpose and of a special benefit to the affected property, collected and enforced in the same manner as property taxes, that may be apportioned according to the direct or indirect special benefits conferred upon the affected property, as well as any or any combination of the following: acreage, square footage, front footage, the cost of providing community infrastructure for the affected property, or any other reasonable method as determined by the district board.

SECTION 3. That Section 50-3103, Idaho Code, be, and the same is hereby amended to read as follows:

50-3103. CREATION OF DISTRICT. (1) The process for the creation and organization of a community infrastructure district shall be initiated by a petition signed by not less than two-thirds (2/3) of the district residents or by all of the owners of all the lands located in the proposed district. The petition shall be filed with the clerk of the governing body in which the proposed district will be located. If the proposed district will be located within two (2) or more counties and/or cities, a petition conforming to the requirements of this section shall be filed with the clerk of each jurisdiction's governing body. The petition shall state the name of the proposed district and the purpose for which it is formed, state that the formation of the district shall entitle the district to impose special assessments, levy property taxes and impose fees or charges to pay the cost of providing services, and shall be accompanied by a map depicting the boundaries of the proposed district, a legal description of the proposed district and a copy of the proposed general plan. The general plan shall describe or identify the community infrastructure to be financed by the district, the locations of the infrastructure and the estimated cost thereof, the proposed financing methods and the anticipated special assessments, tax levies or other charges, the approvals obtained pursuant to section 50-3101(~~34~~), Idaho Code, and may include possible alternatives, modifications or substitutions concerning locations, improvements, financing methods and other information provided in the general plan. The petition shall also

1 include copies of any proposed district development agreement. The petition, together with all  
 2 maps and other papers filed therewith, shall be open to public inspection in the office of the  
 3 clerk in each county or city in which the petition is filed, during such business hours as the  
 4 clerk may direct.

5 (2) Upon the filing of a petition, the governing body shall give notice of the filing of  
 6 the petition and of the time and place set for a public hearing on the petition, which hearing  
 7 shall be at a regular or special meeting held within not less than thirty (30) days nor more than  
 8 ninety (90) days after the date of the filing of the petition. A notice of the time of the public  
 9 hearing shall be published by the governing body twice, the first time not less than twelve (12)  
 10 days prior to the hearing and the second time not less than five (5) days prior to the hearing,  
 11 in a newspaper of general circulation in each county or city in which the proposed district  
 12 will be located. A copy of such notice shall also be mailed to each district resident and each  
 13 owner of real property in the district if known or such owner's agent if known, addressed to  
 14 such person at his or her post office address if known or, if unknown, to a post office in the  
 15 county or city where the district is located. Ownership of real property shall be determined as  
 16 of the date of the adoption of the resolution ordering the hearing. The notice shall state that  
 17 a community infrastructure district is proposed to be formed, giving the proposed boundaries  
 18 thereof, and that any person who is a resident of or a real property taxpayer within the proposed  
 19 district may, on the date fixed for the public hearing, appear and offer any testimony and submit  
 20 written testimony prior thereto pertaining to the formation of the district and the proposed  
 21 boundaries thereof. If the district will be located within two (2) or more counties and/or  
 22 cities, the governing bodies of such counties and/or cities shall coordinate their efforts and  
 23 shall either hold a public hearing in each county or city in which the proposed district will  
 24 be located, or hold a single public meeting in such county or city as the governing bodies  
 25 shall unanimously agree. The notice shall also state that any political subdivision of this state  
 26 within whose jurisdiction the proposed district will be located, including, without limitation,  
 27 a highway district, a school district, a fire district or an ambulance district, may, on the date  
 28 fixed for the public hearing, appear and offer testimony and submit written testimony prior  
 29 thereto pertaining to the formation of the district and the proposed boundaries thereof. After  
 30 hearing and considering any and all of the testimony given, the governing body shall thereupon  
 31 approve a resolution either denying the petition or granting the same and, if granting the same,  
 32 shall fix and describe in the resolution the boundaries of the proposed district and order the  
 33 formation of the same. A resolution granting the petition may also include the approval of any  
 34 district development agreement that has been approved by the governing body in the process of  
 35 considering and approving the formation of the district. The boards of county commissioners  
 36 and/or the city councils, as such governing bodies, are hereby specifically authorized to act in a  
 37 joint manner for such purposes.

38 (3) Whenever a petition shall be filed as provided for in this section, the petitioner  
 39 or petitioners shall deposit with each governing body a sum sufficient to defray the costs of  
 40 publication and mailing of notice of the public hearing. In the event the district is formed,  
 41 said petitioner or petitioners shall be entitled to be reimbursed such sum from the district, as a  
 42 district formation cost related to the community infrastructure, from the district when moneys  
 43 are available to the district. The amount required to be paid under this subsection shall be  
 44 determined by each governing body and deposited before publication of the notice.

45 (4) The governing body may charge the petitioner or petitioners a reasonable fee for the  
 46 governing body to retain outside advisors to assist the governing body in its consideration of

1 the formation of the district. In the event the district is formed, the petitioner or petitioners  
2 shall be entitled to be reimbursed such fee from the district, as a district formation cost related  
3 to the community infrastructure, when moneys are available to the district.

4 SECTION 4. That Section 50-3104, Idaho Code, be, and the same is hereby amended to  
5 read as follows:

6 50-3104. DISTRICT ORGANIZATION. (1) If the petition for formation of the district  
7 is granted, the district shall comply with the filing and recording requirements of section  
8 63-215, Idaho Code, and shall also cause a copy of the applicable resolution to be delivered  
9 to the county assessor of each county in which the district is located, cause a copy of the  
10 applicable resolution to be recorded with the county clerk in each county in which the district is  
11 located, and cause a copy of the applicable resolution to be filed with the state tax commission.

12 (2) Members of the governing body or bodies at the time of formation shall serve as  
13 the district board. If the district is located entirely within the boundaries of a city, three (3)  
14 members of the city council chosen by the city council shall serve as the district board. If the  
15 district is located entirely within the boundaries of a county and outside the boundaries of any  
16 city, the county commissioners of the county in which the district is located shall serve as the  
17 district board. If the district is located within the jurisdiction of more than one (1) governing  
18 body, two (2) members of each governing body shall be appointed by that governing body to  
19 serve on the district board and, in addition, the governing body within whose jurisdiction the  
20 largest land area of the district is located shall appoint another member from its governing body  
21 to serve as an additional member of the district board, so that the district board will always be  
22 comprised of an odd number of members. For purposes of determining which jurisdiction has  
23 such largest land area, the land area in the district that is within the incorporated city limits  
24 shall be considered as being the land area of the city, and shall not be considered as part of  
25 the land area of the county in which the city is located. If an area is added to the district  
26 pursuant to section 50-3106(2), Idaho Code, and such area is located in a city or county not  
27 already represented on the district board, or if the addition of such area changes the jurisdiction  
28 in which the largest land area of the district is located, the membership of the district board,  
29 at the time of addition of such area, shall be adjusted in conformity with the foregoing. If an  
30 area is deleted from the district pursuant to section 50-3106(1), Idaho Code, and, as a result, a  
31 county or city no longer has area within the district, or such deletion changes the jurisdiction in  
32 which the largest land area of the district is located, the membership of the district board, at the  
33 time of deletion of such area, shall be adjusted in conformity with the foregoing. If an area is  
34 annexed or deannexed by a city and, as a result, the jurisdiction of a county or city is changed,  
35 the membership of the district board at the time of such annexation or deannexation shall be  
36 adjusted in conformity with the foregoing. The boards of county commissioners and the city  
37 councils, as such governing bodies, are hereby specifically authorized to act in a joint manner  
38 for such purposes.

39 (3) Within thirty (30) days after the date of the resolution ordering formation of  
40 the district, and annually thereafter, the district board shall meet and elect a chairman and  
41 vice-chairman to act as the officers of the district board. The district board shall, unless  
42 otherwise agreed to by a majority of the board, meet in the county or city within which the  
43 largest land area of the district is located. The district shall keep the following records, which  
44 shall be open to public inspection:

45 (a) Minutes of all meetings of the district board;

- (b) All resolutions;
- (c) Accounts showing all moneys received and disbursed;
- (d) The annual budget; and
- (e) All other records required to be maintained by law.

(4) The district manager shall be the manager or equivalent of the city or county, the district treasurer shall be the treasurer of the city or county, the district clerk shall be the district clerk of the city or county, respectively, unless the district board engages an outside firm to perform the tasks of the district's manager, treasurer and clerk as well as other duties as may be prescribed by the district board. Where a district contains multiple county or city jurisdictions, the board shall designate by resolution the manager, treasurer and clerk.

(5) The district manager shall have charge and supervision of the daily operations of the district. The district manager may hire or otherwise employ and terminate the employment of such persons, including professional, supervisory and clerical employees, as may be necessary and authorized by the board.

(6) The treasurer of the district shall have such duties as the district board may prescribe, together with the duty to keep account with the district; to place to the credit of the district all moneys received by him or her from the collection of special assessments, taxes or from any other sources, and all other moneys belonging to the district, and to pay over all moneys belonging to the district on legally drawn warrants or orders of the district board.

(7) The clerk of the district shall have such duties as the district board may prescribe, together with the duty to conduct district elections and to prepare and distribute legal notices.

(8) The district shall be separate and apart from any county or city. The members of the district board, when serving in their official capacity as members of the district board, shall act on behalf of the district and not as members of a board of county commissioners or as members of a city council.

(9) The district board shall administer in a reasonable manner the implementation of the general plan.

(10) The district shall exist until dissolved pursuant to section 50-3116, Idaho Code.

SECTION 5. That Section 50-3105, Idaho Code, be, and the same is hereby amended to read as follows:

50-3105. DISTRICT POWERS. (1) A district formed pursuant to this chapter, although a political subdivision of this state, is not a governmental entity of general purposes and powers, but is a special limited purposes district, with powers only as permitted under this chapter, which powers include the power to finance community infrastructure consistent with the general plan and, in implementing the general plan, to:

- (a) Enter into contracts and expend moneys for any community infrastructure purposes and/or district operations;
- (b) Enter into intergovernmental agreements as provided for in sections 67-2326 through 67-2333, Idaho Code;
- (c) Enter into district development agreements;
- (d) Acquire interests in real property and personal property for community infrastructure, within or without the district, and sell, dedicate, lease or otherwise dispose of district property if the sale, dedication, lease or conveyance is not a violation of the terms of any contract or bond covenant of the district;

- (e) Plan, design, engineer, acquire, construct and install community infrastructure, including acquiring, converting, renovating or improving existing facilities;
- (f) Employ and establish and pay compensation for staff, counsel and consultants;
- (g) Reimburse a county, city or other political subdivision of this state for staff and consultant services supplied by the county, city or other political subdivision;
- (h) Accept gifts or grants and incur and repay loans for any community infrastructure;
- (i) Enter into agreements with owners concerning the advance of money by owners for community infrastructure or the granting of real property by the owners for community infrastructure;
- (j) Establish, impose and collect or cause to be collected special assessments on real property located within an assessment area of the district and, in conjunction with the imposition of such assessments, set and collect or cause to be collected administrative fees for community infrastructure;
- (k) Levy property taxes on real property located within the district and, in conjunction with the levy of such taxes, set and collect or cause to be collected administrative fees for community infrastructure;
- (l) Incur expenses of the district incident to and reasonably necessary to implement the general plan, and pay the same, including the financial, legal and administrative costs of the district;
- (m) Borrow money and incur indebtedness and evidence the same by certificates, notes, bonds or debentures, and enter into contracts, agreements and trust indentures to obtain credit enhancement or liquidity support for its bonds and process the issuance, registration, transfer and payment of its bonds and the disbursement and investment of proceeds of its bonds;
- (n) To the extent consistent with existing ownership rights, use public easements and rights-of-way in or across public property, roadways, highways, streets or other thoroughfares and other public easements and rights-of-way, whether in or out of the geographical limits of the district, county or city; and
- (o) Sue and be sued and prosecute and defend, at law or in equity.
- (2) Community infrastructure ~~other than personalty~~, may be located only in or on lands, easements or rights-of-way publicly owned by this state or a political subdivision thereof.
- (3) An agreement pursuant to subsection (1) of this section may include agreements to repay all or part of such advances, fees and charges from the proceeds of bonds if issued, or from advances, fees and charges collected from other owners or users or those having a right to use any community infrastructure. A person does not have authority to compel the issuance or sale of the bonds of the district or the exercise of any taxing power of the district to make repayment under any agreement.
- (4) With respect to goods, services or construction to be paid for or financed pursuant to this chapter, the district, as a political subdivision of this state, shall comply with all applicable procurement statutes of this state, including section 67-2320, Idaho Code, and chapter 28, title 67, Idaho Code.

SECTION 6. That Section 50-3108, Idaho Code, be, and the same is hereby amended to read as follows:

50-3108. GENERAL OBLIGATION BONDS – ELECTION – MAXIMUM INDEBTEDNESS ALLOWED – LEVY. (1) After district formation, whenever the district



board shall deem it advisable to issue general obligation bonds of the district, the district board shall provide therefor by resolution, which resolution shall specify and set forth the community infrastructure and other costs and expenses approved by the district board consistent with the general plan to be financed with the bonds, and make provision for the collection of an annual tax sufficient to pay the interest on the bonds as it falls due, and also to constitute a sinking fund for the payment of the principal thereof as required by the constitution and laws of the state of Idaho.

(2) The resolution shall also provide for holding an election, held in compliance with section 50-3112, Idaho Code, to submit to the qualified electors of the district the question of authorizing the district to issue general obligation bonds of the district to provide money for said community infrastructure consistent with the general plan. The ballot used in such election shall be in form substantially as follows: "In favor of issuing bonds to the amount of ..... dollars for the purpose stated in Resolution No. ....," and "Against issuing bonds to the amount of ..... dollars for the purpose stated in Resolution No. ....".

(3) If two-thirds (2/3) of the qualified electors at such election assent to the issuing of the bonds and the incurring of the indebtedness thereby created for the purpose aforesaid, the district board shall thereupon be authorized to issue and create such indebtedness in the manner and for the purposes specified in said resolution, and the bonds shall be issued and sold in the manner provided by the laws of the state of Idaho, and the district board by further resolution shall be entitled to issue and sell the bonds in series or divisions up to the authorized amount without the further vote of the qualified electors, and to issue and sell such bonds at such times and in such amounts as the district board deems appropriate to carry out a community infrastructure project or projects in phases; provided however, that before any issuance of the bonds, including issuance in series or divisions and, in addition to such other determinations made by the district board as it may deem reasonable and prudent, the district board shall also determine whether reasonable financial assurance for the payment of the debt service on the bonds through additional collateral, payment guarantee or otherwise shall be required from a developer. The developer shall be consulted and shall be given a reasonable period of time within which to appear, either in person or in writing, and respond to any proposed financial assurance. If, following such developer's response, the district board determines that reasonable financial assurance shall be required, the district board shall specify the type and amount of the financial assurance required in its resolution.

(4) In no event shall the aggregate outstanding principal amount of general obligation bonds and any other indebtedness for which the full faith and credit of the district are pledged exceed ~~twelve~~ seven percent (~~12~~7%) of the actual or adjusted market value for assessment purposes on all taxable real property within the district as such valuation existed on December 31 of the previous year.

(5) After the bonds are issued, the district shall enter in its minutes a record of the bonds sold and their number and dates and shall periodically collect the pledged revenues to pay the debt service on the bonds when due.

(6) Bond proceeds received by the district shall be held in a segregated account and shall be disbursed therefrom only for:

(a) The payment of community infrastructure and/or community infrastructure segments approved by the district board and actually completed; or

(b) For the purpose of reimbursing actually paid expenditures relating to community infrastructure as approved by the district board; provided however, that lien releases with

1 respect to the payment made must be obtained from the underlying providers of labor,  
2 work, services or materials as a condition to such payment; or

3 (c) For the payment or reimbursement of governmentally imposed impact fees as  
4 approved by the district board.

5 (7) Completion of community infrastructure may be phased and payment made pursuant  
6 to a draw schedule. Bond proceeds shall be expended on the community infrastructure within  
7 three (3) years after issuance. Prior to issuance of the bonds, the district board shall determine  
8 that such bond proceeds can reasonably be expended within that time.

9 (8) Each year, prior to the time for the certification required under section 50-3114,  
10 Idaho Code, the district board shall levy a tax upon all taxable real property within the district,  
11 sufficient, together with any money from the sources described in section 50-3107(3), Idaho  
12 Code, to pay debt service on the bonds when due. The levy shall be made by resolution  
13 entered upon the minutes of the district board, and it shall be the duty of the clerk of the  
14 district, immediately after entry of the resolution in the minutes, to transmit to the board of  
15 county commissioners in each county in which the district is located the certification required  
16 under section 50-3114, Idaho Code. Such tax levied shall then be collected and accounted for  
17 at the time and in the form and manner as other taxes are collected and accounted for under the  
18 laws of this state. Moneys derived from the levy of property taxes to pay the debt service on  
19 the bonds shall be kept separately from other funds of the district. A district's levy of property  
20 taxes shall constitute a lien on all taxable real property within the district.

21 (9) The district may issue and sell refunding bonds to refund general obligation bonds  
22 of the district authorized by this section. The principal amount of the refunding bonds may be  
23 more or less than the principal amount of the bonds being refunded, provided that the proceeds  
24 of the refunding bonds are used only for refunding purposes and payment of the costs thereof,  
25 and the total obligation of the district is not increased, that is, if the amount of the refunding  
26 bonds is more than the principal amount of the bonds being refunded, issuance of the refunding  
27 bonds will result in a net present value savings to the district. No election shall be required  
28 in connection with the issuance and sale of such refunding bonds. Refunding bonds issued  
29 pursuant to this section shall have a final maturity date no later than the final maturity date of  
30 the bonds being refunded.

31 SECTION 7. That Section 50-3109, Idaho Code, be, and the same is hereby amended to  
32 read as follows:

33 50-3109. SPECIAL ASSESSMENTS – BONDS. (1) After district formation, upon  
34 the submission of a petition signed by all the owners of all the lands located in a proposed  
35 assessment area, ~~or whenever the district board shall deem it advisable,~~ the district board shall  
36 adopt a resolution ordering that a hearing be held to determine whether a special assessment  
37 should be imposed and special assessment bonds be issued to provide money for community  
38 infrastructure consistent with the general plan and the exercise by the district board of any of  
39 its powers under section 50-3105, Idaho Code.

40 (2) Notice of the hearing shall be posted in three (3) public places within the boundaries  
41 of the district not less than thirty (30) days before the hearing. Notice of the hearing shall  
42 also be published twice, the first time not less than twelve (12) days prior to the hearing and  
43 the second time not less than five (5) days prior to the hearing, in a newspaper of general  
44 circulation in each county or city in which the district is located. A copy of such notice shall  
45 also be mailed to each district resident and each owner of real property in the district if known

1 or such owner's agent if known, addressed to such person at his or her post office address  
 2 if known or, if unknown, to a post office in the county or city where the district is located.  
 3 Ownership of real property shall be determined as of the date of the adoption of the resolution  
 4 ordering the hearing. The notice shall include the following:

- 5 (a) A description of the real property to be included within the assessment area;
- 6 (b) A description of the method by which the amount of the proposed special assessment  
 7 will be determined for each class of real property to which the special assessment is  
 8 proposed to apply, in sufficient detail to enable the owner of the affected parcel to  
 9 determine the amount of the special assessment;
- 10 (c) A description of the community infrastructure to be financed with special assessment  
 11 bonds or revenues; and
- 12 (d) A statement that any person affected by the proposed special assessment may object  
 13 in writing or in person at the hearing.

14 (3) If, after the hearing, the district board finds that it will be for the best interest of  
 15 the district and the real property within the assessment area that the aggregate fair market  
 16 value of the real property within the assessment area, including the value of the community  
 17 infrastructure to be financed or paid for with the special assessments, and the infrastructure for  
 18 which performance bonds or other financial assurances have been received, is at least three (3)  
 19 times the aggregate principal amount of the special assessment bonds as determined by an MAI  
 20 appraisal in form and substance acceptable to the district board, the district board shall adopt  
 21 a resolution approving the imposition of the special assessment and, also by resolution, shall  
 22 prepare a form of assessment roll numbering each assessment, giving the name, if known, of  
 23 the owner of each lot or parcel of real property assessed, showing the amount chargeable to  
 24 each such lot or parcel, and finding that each such lot or parcel is benefited to the amount of  
 25 assessment imposed thereon. Such resolution shall be the final determination of the regularity,  
 26 validity and correctness of the assessment roll, of each assessment contained therein, and of  
 27 the amount thereof imposed on each such lot or parcel. Special assessments may be prepaid  
 28 and permanently satisfied in whole or in part at any point in time. Prepayment of special  
 29 assessments shall be paid in cash to the district in the following manner: (i) the interest on  
 30 such portion to the next date special assessment bonds may be redeemed, plus (ii) the unpaid  
 31 principal amount of such portion rounded up to the next highest multiple of one thousand  
 32 dollars (\$1,000), plus (iii) any premium due on such redemption date with respect to such  
 33 portion, plus (iv) any administrative or other fees charged by the district with respect thereto,  
 34 less (v) the amount by which any reserve fund associated with the special assessment may be  
 35 reduced on the redemption date as a result of such prepayment.

36 (4) Special assessment bonds approved at the hearing shall be issued in the manner  
 37 provided by the laws of the state of Idaho, and the district board by further resolution shall be  
 38 entitled to issue and sell the bonds in series or divisions up to the authorized amount without  
 39 further hearing, and to issue and sell such bonds at such times and in such amounts as the  
 40 district board deems appropriate to carry out a community infrastructure project or projects in  
 41 phases. Bond proceeds shall be expended on the community infrastructure within three (3)  
 42 years after issuance. Prior to issuance of the bonds, the district board shall determine that such  
 43 bond proceeds can reasonably be expended within such time.

44 (5) After the bonds are issued, the district board shall enter in its minutes a record of the  
 45 bonds sold and their numbers and dates and shall periodically collect the pledged revenues to  
 46 pay the debt service on the bonds when due.

1 (6) Each year, prior to the time for the certification required under section 50-3114, Idaho  
2 Code, the district board shall impose a special assessment upon the real property within the  
3 assessment area of the district that will be subject to the special assessment sufficient, together  
4 with any moneys from the sources described in section 50-3107(3), Idaho Code, to pay debt  
5 service on the bonds when due, in addition to reasonable costs associated with the collection of  
6 the special assessment payments. The special assessment shall be made by resolution entered  
7 upon the minutes of the district board, and it shall be the duty of the clerk of the district,  
8 immediately after entry of the resolution in the minutes, to transmit to the board of county  
9 commissioners in each county in which the district is located, the certification required under  
10 section 50-3114, Idaho Code. Such special assessment shall then be collected and accounted  
11 for at the time and in the form and manner as property taxes are collected and accounted for  
12 under the laws of this state. Moneys derived from the imposition of the special assessment to  
13 pay the debt service on the bonds shall be kept separately from other moneys of the district.

14 (7) Special assessments against privately owned residential property shall be subject to  
15 the following provisions:

16 (a) The maximum amount of any special assessment that may be imposed shall not  
17 be increased over time by any amount exceeding two percent (2%) per year, up to a  
18 maximum of ten percent (10%);

19 (b) The special assessment shall be imposed for a specified time period, after which no  
20 further special assessment shall be imposed and collected; and

21 (c) Subject to the applicable laws of this state, nothing in this subsection shall preclude  
22 the establishment of different categories of residential property or changing the amount of  
23 the special assessment imposed upon a parcel whose size or use is changed. A change  
24 in the amount of a special assessment imposed upon a parcel due to a change in its size  
25 or use shall not require notice and hearing, if the method for changing the amount of  
26 special assessment was approved at the hearing approving the special assessment and was  
27 described in sufficient detail to enable the owner of the affected parcel to determine how  
28 the change in size or use of the parcel would affect the amount of the special assessment.

29 (8) A district's imposition of a special assessment shall constitute a lien on the real  
30 property within the assessment area subject to the special assessment, including real property  
31 acquired by the state or its political subdivisions after the imposition of the special assessment,  
32 which shall be effective during the period in which the special assessment is imposed and shall  
33 have a priority coequal to the lien of real property taxes. A special assessment shall be subject  
34 to foreclosure by the district in the same manner as real property tax liens under the laws of  
35 this state, provided that a special assessment shall be subject to foreclosure at any time after  
36 thirty (30) days following written notice of delinquency to the owner of the real property to  
37 which the delinquency applies. The portion of proceeds of any foreclosure sale necessary to  
38 discharge the lien for the special assessment shall be deposited in the special bond fund for  
39 payment of any obligations secured thereby.

40 (9) No holder of special assessment bonds issued pursuant to this chapter may compel  
41 any exercise of the taxing power of the district, county or city to pay the bonds or the interest  
42 on the bonds. Special assessment bonds issued pursuant to this chapter are not a debt of the  
43 state of Idaho or any political subdivision thereof including the district, county or city, nor is  
44 the payment of special assessment bonds enforceable out of any moneys other than the revenue  
45 pledged to the payment of the bonds.

1 (10) Subject to the provisions of this section, a district may issue special assessment  
 2 bonds at such times and in such amounts as the district deems appropriate to carry out a project  
 3 or projects in phases, and payment may be made pursuant to a draw schedule.

4 (11) The district may issue and sell refunding bonds to refund any special assessment  
 5 bonds of the district authorized in this chapter. The principal amount of the refunding bonds  
 6 may be more or less than the principal amount of the bonds being refunded, provided the  
 7 proceeds of the refunding bonds are used only for refunding purposes and payment of the costs  
 8 thereof, and the total obligation of the district is not increased, that is, if the amount of the  
 9 refunding bonds is more than the principal amount of the bonds being refunded, issuance of the  
 10 refunding bonds will result in a net present value savings to the district. No election shall be  
 11 required in connection with the issuance and sale of such refunding bonds. Refunding bonds  
 12 issued pursuant to this section shall have a final maturity date no later than the final maturity  
 13 date of the bonds being refunded.

14 SECTION 8. That Section [50-3113](#), Idaho Code, be, and the same is hereby repealed.

15 SECTION 9. That Section 50-3119, Idaho Code, be, and the same is hereby amended to  
 16 read as follows:

17 50-3119. APPEAL – EXCLUSIVE REMEDY – CONCLUSIVENESS. Any person in  
 18 interest who feels aggrieved by the final decision of a governing body or a district board  
 19 in the formation or governing of a district, including, with respect to any tax levy, special  
 20 assessment or bond, may, within ~~thirty~~ sixty (~~30~~) days after such final decision, seek judicial  
 21 review by filing a written notice of appeal with the clerk of the district and with the clerk of  
 22 the district court for the judicial district in which a majority of the land area of the district  
 23 is located. After said ~~thirty~~ sixty (~~30~~) day period has run, no one shall have any cause or  
 24 right of action to contest the legality, formality or regularity of said decision for any reason  
 25 whatsoever and, thereafter, said decision shall be considered valid and uncontestable and the  
 26 validity, legality and regularity of any such decision shall be conclusively presumed. With  
 27 regard to the foregoing, if the question of validity of any bonds issued pursuant to this chapter  
 28 is not raised on appeal as aforesaid, the authority to issue the bonds, the legality thereof and  
 29 of the levies or assessments necessary to pay the same shall be conclusively presumed and no  
 30 court shall thereafter have authority to inquire into such matters.